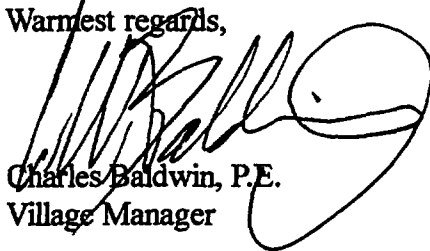


March 10, 2003

As each of us is approaching our preliminary budget preparation early resolution of this matter would be helpful.

Warmest regards,



Charles Baldwin, P.E.  
Village Manager

Attachments

cc. Islamorada, Village of Islands, Mayor and Council  
Monroe County Board of County Commissioners  
City of Marathon, Mayor and Manager  
City of Key West, Mayor and Manager  
City of Layton, Mayor  
City of Key Colony Beach, Mayor

## **Constitutional Fuel Tax**

Article XII, Section 9(c), *Florida Constitution*

Sections 206.41(1)(a), 206.47, 336.023, and 336.024, *Florida Statutes*

### **Brief Overview**

In 1941, the Florida Legislature proposed a constitutional amendment to levy a tax of 2 cents per gallon on motor fuel. Voters approved the tax in 1943. The original intent of the tax was to cover the costs of state road construction. In its current form, the tax is a revenue source for counties only.

The proceeds are allocated via the distribution formula to the extent necessary to comply with all obligations to or for the benefit of holders of bonds, revenue certificates, and tax anticipation certificates or any refundings secured by any portion of the tax proceeds allocated under the provisions of s.16, Art.IX of the State Constitution of 1885, as amended. After complying with the necessary debt service obligations, a county's surplus funds are distributed to its governing body.

### **2002 General Law Amendments**

Legislation passed during the 2002 legislative sessions did not affect provisions related to this tax.

### **Eligibility Requirements**

All counties are eligible to receive proceeds.

### **Administrative Procedures**

The tax is collected by the Department of Revenue and is transferred monthly to the State Board of Administration (SBA) for distribution to the counties. There are no deductions from the proceeds for the General Revenue Service Charges authorized in s. 215.20, F.S. However, the SBA deducts administrative costs from the proceeds.<sup>1</sup>

### **Distribution of Proceeds**

The SBA calculates a monthly allocation for each county based on the constitutional formula and credits to the account of each county the amount allocated pursuant to the formula. The distribution formula is comprised of three components: an area component, a population component, and a collection component. A distribution factor, based on these three components, is calculated annually for each county in the form of

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<sup>1</sup> Pursuant to Article XII, section 9(c)(4), *Florida Constitution*.

weighted county-to-state ratios. To determine each county's monthly allocation, the monthly statewide tax receipts are multiplied by each county's distribution factor.

A county's monthly distribution is determined as follows:

1. First, the distribution factor for each county is calculated as follows:

$$\begin{aligned} & \frac{1}{4} \quad \times \quad \frac{\text{County Area}}{\text{State Area}} \\ + & \quad \frac{1}{4} \quad \times \quad \frac{\text{County Population}}{\text{State Population}} \\ + & \quad \frac{1}{2} \quad \times \quad \frac{\text{Number of Motor Fuel Gallons Sold in County}}{\text{Number of Motor Fuel Gallons Sold Statewide}} \\ = & \quad \text{County's Distribution Factor} \end{aligned}$$

2. Second, the monthly allocation for each county is calculated as follows:

$$\text{Monthly Statewide Constitutional Fuel Tax Receipts} \times \text{County's Distribution Factor} = \text{County's Monthly Allocation}$$

The State Board of Administration shall annually use the funds in each county account to first pay the current principal and any interest maturing of bonds issued for road and bridge purposes as well as gasoline or other fuel tax anticipation certificates of the county or special road and bridge district, or other special taxing district. After satisfying this obligation, the funds shall be used to establish a sinking fund account to meet future requirements of such bonds and gasoline or other fuel tax anticipation certificates where it appears the anticipated income for any year or years will not equal the scheduled payments.

Any remaining proceeds in each county account are surplus funds and shall be remitted by the State Board of Administration as follows:

1. 80 percent to the Department of Transportation for the construction or reconstruction of state roads and bridges within the county or for the lease or purchase of bridges connecting state highways within the county; and
2. 20 percent to the Board of County Commissioners for use on roads and bridges within the county.

In each fiscal year, the SBA will distribute the 80 percent surplus fuel tax proceeds allocated to each county to the debt service requirements of each bond issue pledging the 80 percent surplus accruing to that county. The remaining 80 percent surplus fuel tax funds will be advanced monthly to the Board of County Commissioners for use in the county.

In each fiscal year, the SBA will distribute the 20 percent surplus fuel tax proceeds allocated to each county to the debt service requirements of each bond issue pledging the 20 percent surplus accruing to that county. The remaining 20 percent surplus fuel tax funds will be advanced monthly to the Board of County Commissioners for use in the county.

Pursuant to s. 336.024, F.S., the SBA shall assume the responsibility for distribution of the counties' 80 percent portion in the same manner as the 20 percent portion is currently distributed pursuant to s. 206.47, F.S. However, the SBA shall ensure that county funds are made available to the Department of Transportation to be held in escrow for any construction underway on behalf of the county pursuant to resolution of the county's governing body.

#### **Authorized Uses**

Current law requires that the proceeds credited to each county must first be used to meet the debt service requirements, if any, of the debt assumed or refunded by the State Board of Administration payable from the tax. The remaining fuel tax funds credited to each county are surplus funds and shall be distributed as provided by law.

The surplus funds shall be used for the acquisition, construction, and maintenance of roads. Maintenance means periodic and routine maintenance, as defined in s. 334.03, F.S., and may include the construction and installation of traffic signals, sidewalks, bicycle paths, and landscaping. The funds may be used as matching funds for any federal, state, or private grant specifically related to these purposes.

Periodic maintenance, as defined in s. 334.03(19), F.S., means activities that are large in scope and require a major work effort to restore deteriorated components of the transportation system to a safe and serviceable condition. Such efforts may include, but not be limited to, the repair of large bridge structures, major repairs to bridges and bridge systems, and the mineral sealing of lengthy sections of roadway.

Routine maintenance is defined in s. 334.03(24), F.S., to mean minor repairs and associated tasks necessary to maintain a safe and efficient transportation system. The term includes pavement patching; shoulder repair; cleaning and repair of drainage ditches, traffic signs, and structures; mowing; bridge inspection and maintenance; pavement striping; litter cleanup; and other similar activities.

Pursuant to s. 336.023, F.S., any county that agreed prior to July 1, 1977, by resolution, to use the surplus proceeds to provide a connecting road to a planned interchange on the interstate system shall provide the connecting road. Any surplus, not otherwise used to provide the connecting road, shall be used on any road in the county at the discretion of the county's governing body.

### **Relevant Attorney General Opinions**

Florida's Attorney General has issued a number of opinions relevant to this revenue source. The full texts of those opinions are available via the searchable online database of legal opinions (<http://legal.firm.edu/opinions/index.html>).

In a recent online search, the LCIR staff identified the following opinions pertaining to this revenue source:

<u>Opinion #</u>	<u>Subject</u>
79-41	County transportation trust funds, auditing
79-43	Surplus constitutional fuel tax, authorized use
79-104	Surplus constitutional fuel tax, authorized use
80-22	Surplus constitutional fuel tax, authorized use
82-55	Surplus constitutional fuel tax, authorized use
83-22	Surplus constitutional fuel tax, authorized use
83-26	Surplus constitutional fuel tax, authorized use
84-06	Surplus constitutional fuel tax, authorized use
85-53	Service charge charged by clerk from gas tax money
85-93	Constitutional fuel tax, payment of service charges and administrative fees
93-25	Surplus constitutional fuel tax, authorized use

Local government officials seeking more clarification should review the opinions in their entirety. The statutory language pertaining to this revenue source has been amended since its authorization. The reader should keep the date of the opinion in mind when reviewing its relevance to current law or any interpretations that have been articulated in Florida case law.

### **Current Year's Revenues**

**Table 1** displays the estimated distributions by county for local fiscal year 2002-03, as calculated by the Department of Revenue. In addition to the estimated distribution, the table also lists the area, population, and collection components as well as the distribution factor for each county. The estimates are based on a statewide estimate of total constitutional fuel tax collections. These estimates are net of the State Board of Administration's administrative deductions. Inquiries regarding the Department of Revenue's estimates should be addressed to the Office of Research and Analysis at (850) 488-2900 or Suncom 278-2900.

**Prior Years' Revenues**

Several additional tables summarizing prior years' distributions to counties are available via the LCIR's website (<http://fcn.state.fl.us/lcir/databank/revenues.html>).

Table 1

# Constitutional Fuel Tax

Estimated Distributions by County  
Local Government Fiscal Year 2002-03

County	Collection Component	Population Component	Area Component	Distribution Factor	Estimated Distribution
Alachua	0.69275%	0.34129%	0.40960%	1.44360%	\$ 2,755,941
Baker	0.09486%	0.03454%	0.24530%	0.37470%	715,330
Bay	0.54921%	0.23007%	0.36710%	1.14640%	2,188,564
Bradford	0.08926%	0.03993%	0.12260%	0.25180%	480,705
Brevard	1.45646%	0.74276%	0.54030%	2.73950%	5,229,911
Broward	4.68898%	2.52588%	0.51240%	7.72730%	14,751,995
Calhoun	0.04628%	0.02001%	0.24060%	0.30690%	585,895
Charlotte	0.49805%	0.22132%	0.33840%	1.05780%	2,019,420
Citrus	0.31119%	0.18443%	0.27480%	0.77040%	1,470,751
Clay	0.40553%	0.21867%	0.26040%	0.88460%	1,688,768
Collier	0.73648%	0.40489%	0.86260%	2.00400%	3,825,786
Columbia	0.32950%	0.08736%	0.33290%	0.74980%	1,431,424
DeSoto	0.07102%	0.05012%	0.26590%	0.38700%	738,812
Dixie	0.04784%	0.02152%	0.30930%	0.37870%	722,967
Duval	2.78439%	1.21538%	0.35900%	4.35880%	8,321,276
Escambia	0.90415%	0.45423%	0.31990%	1.67830%	3,204,001
Flagler	0.16075%	0.08123%	0.21280%	0.45480%	868,247
Franklin	0.04609%	0.01521%	0.32150%	0.38280%	730,794
Gadsden	0.23631%	0.06933%	0.22460%	0.53020%	1,012,192
Gilchrist	0.03648%	0.02250%	0.14920%	0.20820%	397,469
Glades	0.02794%	0.01625%	0.41210%	0.45630%	871,111
Gulf	0.03339%	0.02308%	0.27390%	0.33040%	630,758
Hamilton	0.09679%	0.02102%	0.21750%	0.33530%	640,113
Hardee	0.07939%	0.04121%	0.26760%	0.38820%	741,103
Hendry	0.15520%	0.05557%	0.49600%	0.70680%	1,349,334
Hernando	0.38473%	0.20325%	0.20730%	0.79530%	1,518,287
Highlands	0.27079%	0.13504%	0.45980%	0.86560%	1,652,495
Hillsborough	3.31334%	1.57209%	0.52040%	5.40580%	10,320,078
Holmes	0.06825%	0.02865%	0.20860%	0.30550%	583,222
Indian River	0.42777%	0.17715%	0.22120%	0.82610%	1,577,087
Jackson	0.28207%	0.07271%	0.39660%	0.75140%	1,434,479
Jefferson	0.08387%	0.01997%	0.25160%	0.35540%	678,485
Lafayette	0.01452%	0.01080%	0.23090%	0.25620%	489,105
Lake	0.65071%	0.33729%	0.48500%	1.47300%	2,812,067
Lee	1.45215%	0.69644%	0.42980%	2.57840%	4,922,359
Leon	0.71061%	0.37386%	0.29790%	1.38240%	2,639,105
Levy	0.13017%	0.05376%	0.48590%	0.66980%	1,278,698
Liberty	0.02708%	0.01092%	0.34770%	0.38570%	736,330
Madison	0.16266%	0.02888%	0.30000%	0.49150%	938,310
Manatee	0.72230%	0.41452%	0.35570%	1.49250%	2,849,294
Marion	1.08469%	0.40458%	0.68440%	2.17370%	4,149,756
Martin	0.42124%	0.19729%	0.28450%	0.90300%	1,723,895
Miami-Dade	5.81965%	3.49945%	0.91700%	10.23610%	19,541,483
Monroe	0.33542%	0.12337%	0.82010%	1.27890%	2,441,516
Nassau	0.19264%	0.09034%	0.27480%	0.55780%	1,064,882

Table 1

# Constitutional Fuel Tax


Estimated Distributions by County  
Local Government Fiscal Year 2002-03

County	Collection Component	Population Component	Area Component	Distribution Factor	Estimated Distribution
Okaloosa	0.59870%	0.26554%	0.41760%	1.28180%	2,447,052
Okeechobee	0.18176%	0.05534%	0.37080%	0.60790%	1,160,527
Orange	3.44280%	1.42379%	0.41850%	5.28510%	10,089,652
Osceola	0.69026%	0.27485%	0.62880%	1.59390%	3,042,875
Palm Beach	2.98490%	1.76739%	0.93300%	5.68530%	10,853,664
Pasco	1.00091%	0.53946%	0.32410%	1.86450%	3,559,470
Pinellas	2.23694%	1.42245%	0.18120%	3.84060%	7,331,993
Polk	1.69265%	0.75950%	0.83950%	3.29170%	6,284,102
Putnam	0.21644%	0.10842%	0.34560%	0.67050%	1,280,035
Saint Johns	0.51743%	0.19688%	0.29250%	1.00680%	1,922,057
Saint Lucie	0.65762%	0.30351%	0.25450%	1.21560%	2,320,672
Santa Rosa	0.33988%	0.18581%	0.48500%	1.01070%	1,929,502
Sarasota	0.95023%	0.51136%	0.24910%	1.71070%	3,265,855
Seminole	1.00237%	0.57861%	0.14620%	1.72720%	3,297,354
Sumter	0.38147%	0.08716%	0.24110%	0.70970%	1,354,871
Suwannee	0.16437%	0.05465%	0.28870%	0.50770%	969,237
Taylor	0.10038%	0.02988%	0.44040%	0.57070%	1,089,509
Union	0.03548%	0.02081%	0.10450%	0.16080%	306,979
Volusia	1.30993%	0.69205%	0.52300%	2.52500%	4,820,414
Wakulla	0.06674%	0.03645%	0.26040%	0.36360%	694,140
Walton	0.21897%	0.06513%	0.47960%	0.76370%	1,457,961
Washington	0.07682%	0.03282%	0.26040%	0.37000%	706,358
<b>Totals</b>	<b>50.00000%</b>	<b>25.00000%</b>	<b>25.00000%</b>	<b>100.00000%</b>	<b>\$ 190,907,500</b>

Source: Department of Revenue (revised 7/2002)



# Memorandum

To: Village Council  
From: Charles Baldwin, P.E., Village Manager   
Date: 01/23/03  
Re: Resolution Requesting Monroe County To Distribute Constitutional Fuel Tax

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## ITEM

This is a resolution requesting that Monroe County distribute to Islamorada its fair share of the Constitutional Fuel Tax received by the County from the State of Florida. The resolution further encourages the Florida Keys Coalition of Cities to pass a similar resolution affirming that they want their fair share of the Constitutional Fuel Tax.

## RECOMMENDATION

Approval

## BACKGROUND

The State of Florida collects a Constitutional Fuel Tax of 2 cents per gallon on motor fuel, in accordance with Sections 206.41(1)(a), 206.47, 336.023, and 336.024 of the Florida Statutes. This tax is then distributed to the counties based on a distribution formula comprised of three components: an area component, a population component, and a collection component. The Constitutional Fuel Tax must be used for acquisition, construction and maintenance of roads (including construction and installation of traffic signals, sidewalks, bike paths, and landscaping).


Incorporations within Monroe County have removed many roads and bridges from the jurisdiction of Monroe County. The maintenance and operation of these facilities is now the responsibility of the Village of Islamorada. Therefore, the Village is requesting that the County remit to the Village its fair share of the Constitutional Fuel Tax that the County receives from the State of Florida.

## STAFF IMPACT

None

## BUDGET IMPACT

The estimated total distribution of Constitutional Fuel Tax to Monroe County for Fiscal Year 2002-2003 is \$ 2,441,516. An estimated Village share of this total has not been formulated.



**RESOLUTION NO. 03-01-02**

**A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, REQUESTING MONROE COUNTY TO DISTRIBUTE THE APPROPRIATE SHARE OF THE COUNTY'S CONSTITUTIONAL FUEL TAX TO ALL INCORPORATED MUNICIPALITIES WITHIN MONROE COUNTY, AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS,** Monroe County continues to collect and retain the Constitutional Fuel Tax distributed by the State of Florida under F.S. Section(s) 206.41(1)(a), 206.47, 336.023, and 336.024; and

**WHEREAS,** incorporations have removed many roads and bridges from the jurisdiction of Monroe County; and

**WHEREAS,** the maintenance and operation of these facilities are now the responsibility of the Village of Islamorada; and

**WHEREAS,** the Village of Islamorada has not received any of the Constitutional Fuel Taxes collected by Monroe County since its incorporation; and

**WHEREAS,** the Florida Keys Coalition of Cities is encouraged to create and pass a resolution endorsing collections and payment to Coalition Cities for their fair share of the Constitutional Fuel Tax.

**NOW THEREFORE BE IT RESOLVED BY THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, AS FOLLOWS:**

**Section 1. Recitals.**

That the Village of Islamorada specifically requests its fair share of the Constitutional Fuel Tax received by Monroe County from the State of Florida.

That the Florida Keys Coalition of Cities, which are incorporated municipalities within Monroe County, is requested to pass a similar resolution to notify Monroe County that they also want their fair share of the collected Constitutional Fuel Tax.

**Section 2. Effective Date.**

This resolution shall become effective immediately upon its adoption.

The foregoing Resolution was offered by Mayor Gregg, who moved for its adoption on first reading. This motion was seconded by Councilman Geisler, and upon being put to a vote, the vote was as follows:

**FINAL VOTE AT ADOPTION**

**VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS**

Mayor Mark Gregg	YES
Vice Mayor Michael Forster	YES
Councilman George Geisler	YES
Councilman Robert Johnson	YES
Councilman Chris Sante	YES

**PASSED AND ADOPTED ON THIS 23<sup>rd</sup> DAY OF January, 2003.**

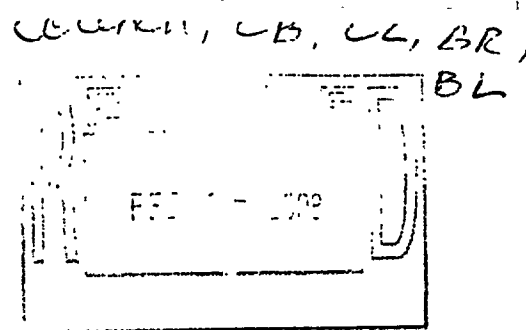
  
MAYOR

ATTEST:

  
VILLAGE CLERK

APPROVED AS TO LEGAL SUFFICIENCY:

  
VILLAGE ATTORNEY



**John Bartus**  
*Mayor*

**TO:** Monroe County Board of County Commissioners  
Monroe County Municipal Clerks

**FROM:** Katherine Selchan, City Clerk

RE: City of Marathon Resolution No. 2003-48

DATE: February 26, 2003

Enclosed please find a certified copy of Resolution No. 2003-48 passed and adopted on February 25, 2003.

This resolution requests Monroe County to distribute the fair apportionment of Monroe County's Constitutional Fuel Tax to all incorporated municipalities within Monroe County.

Please forward copies of this resolution to your city's elected officials and city/town/village manager.

:ks  
Enclosures

**RESOLUTION NO. 2003- 48**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, REQUESTING MONROE COUNTY TO DISTRIBUTE THE FAIR APPORTIONMENT OF MONROE COUNTY'S CONSTITUTIONAL FUEL TAX TO ALL INCORPORATED MUNICIPALITIES WITHIN MONROE COUNTY; REQUESTING CONCURRENT RESOLUTIONS; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, Monroe County (the "County"), continues to collect and retain the Constitutional Fuel Tax distributed by the State of Florida under Section(s) 206.41(1)(a), 206.47, 336.023, and 336.024, Florida Statutes; and

**WHEREAS**, incorporations have removed many roads and bridges from the jurisdiction of the County; and

**WHEREAS**, the City of Marathon (the "City"), pursuant to a Road Transfer Agreement, has been responsible for the maintenance and operation of roads within the City, previously the responsibility of the Board of County Commissioners;

**WHEREAS**, the City has not received any of the Constitutional Fuel Taxes collected by County since its incorporation; and

**WHEREAS**, the Florida Keys Coalition of Cities is encouraged to create and pass a resolution endorsing collections and payment to Coalition Cities for their fair share of the Constitutional Fuel Tax.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, AS FOLLOWS:**

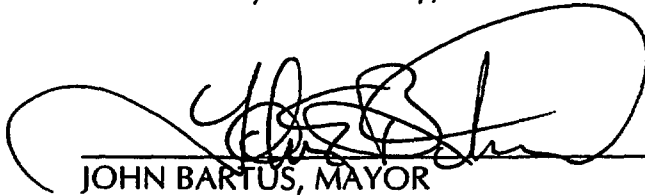
**Section 1. Recitals.** The above recitals are true and correct and incorporated herein by this reference.

**Section 2. Request of Fuel Tax Apportionment.** The City of Marathon specifically requests that the Monroe County Board of County Commissioners remit the City's apportionment of the Constitutional Fuel Tax received by Monroe County from the State of Florida, to be used for improvements and projects for the City's roads.

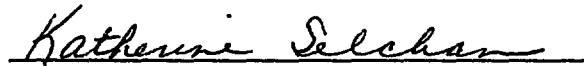
**Section 3. Request for Concurrent Resolution.** The Florida Keys Coalition of Cities, which is comprised of the incorporated municipalities within Monroe County, is requested to pass a similar resolution to notify Monroe County that they also desire their fair share of the collected Constitutional Fuel Tax.

**Section 4. Effective Date.** This resolution shall take effect immediately upon its adoption.

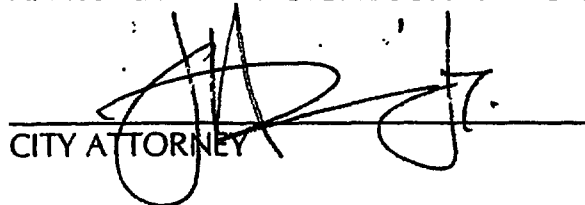
PASSED AND ADOPTED on this 25<sup>th</sup> day of February, 2003.

  
JOHN BARTUS, MAYOR

ATTEST:

  
CITY CLERK

APPROVED AS TO LEGAL SUFFICIENCY:

  
CITY ATTORNEY

### **CERTIFICATION**

I CERTIFY THIS TO BE A TRUE & CORRECT  
COPY OF THE ORIGINAL DOCUMENT ON  
FILE.

WITNESS MY HAND AND OFFICIAL SEAL OF  
The City of Marathon  
IN THE COUNTY OF Monroe  
FLORIDA, THIS 26th DAY OF February  
20 03.

  
CITY CLERK